

Maqasid ash-Syariah Approach to Jarimah Al-Riddah

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Info Articles	Abstract
<p>Article History Received : 2022-09-07 Revised: 2022-09-13 Published: 2022-09-30</p> <p>Keywords: <i>Maqashid Syariah, Jarimah al-Riddah, Islamic Criminal Law.</i></p>	<p>The research method used is qualitative with a normative juridical approach through literature study. Data were obtained from Islamic legal sources such as the Qur'an, hadith, and relevant classical and modern fiqh literature. Data analysis techniques were carried out descriptively and analytically by examining the concept of jarimah al-riddah and linking it to the principles of maqashid sharia, such as hifz al-din, hifz al-nafs, and hifz al-'aql. The results of the study indicate that the maqashid sharia approach provides a more comprehensive and contextual understanding of jarimah al-riddah. It is not only understood as a violation of religion, but must also consider the protection of human rights, freedom of belief, and the public interest. Therefore, a wise and proportional interpretation is needed so that the application of the law remains in line with the main objectives of sharia, namely realizing justice and avoiding harm.</p>

I. INTRODUCTION

Islamic criminal law is an integral part of the Islamic legal system, serving to maintain order, justice, and realize the welfare of human life. In the concept of Islamic criminal law, there are recognized jarimah (criminal acts) which are divided into several categories, one of which is jarimah al-riddah, namely the act of leaving Islam. In classical fiqh studies, riddah is seen as a serious violation because it is not only related to aspects of individual faith, but is also considered to threaten social, political, and religious stability in Islamic society (Awdah, 2000). Therefore, classical scholars established strict sanctions as a form of protection of religion (hifz al-din).

However, with the development of the times, social dynamics, and changes in the context of modern society, various new perspectives have emerged that attempt to re-examine the concept of the crime of riddah. Contemporary Islamic legal thought has begun to position the issue of riddah not merely as a theological issue, but also in relation to the values of justice, humanity, and human rights, including freedom of religion and belief (Al-Qaradawi, 2001). This demonstrates the need for a more contextual understanding of Islamic law to remain relevant to societal developments without neglecting the basic principles of sharia.

In this context, the maqashid sharia approach is an important and relevant method to use. Maqashid sharia is the main objectives of the establishment of Islamic law that is oriented

towards human welfare. This concept emphasizes that every legal provision in Islam is basically aimed at protecting five main aspects, namely religion (hifz al-din), life (hifz al-nafs), reason (hifz al-'aql), descendants (hifz al-nasl), and property (hifz al-mal) (Al-Shatibi, 1997). By using this approach, understanding jarimah al-riddah is not only seen from a purely normative aspect, but also analyzed based on the purpose and wisdom of the establishment of the law.

Furthermore, the maqashid sharia approach allows for a more comprehensive and proportional interpretation of the concept of riddah, especially in facing the challenges of modernity and plurality of society. By considering aspects of benefit and avoiding harm, this approach can provide space for more adaptive interpretations without abandoning basic Islamic values. This is important so that Islamic law remains able to answer contemporary problems fairly and wisely.

Based on this background, this study aims to analyze jarimah al-riddah through the maqashid sharia approach, so that it is expected to produce a deeper, contextual, and relevant understanding of the main objectives of Islamic law, namely realizing justice, welfare, and protection of basic human rights.

II. RESEARCH METHODS

This research uses a qualitative method with a normative juridical approach, namely examining the crime of riddah based on Islamic legal norms. This approach is carried out by examining primary sources such as the Qur'an, hadith, and the opinions of classical and contemporary scholars related to the concepts of riddah and maqashid sharia.

The data used is secondary data obtained from various sources, such as books, scientific journals, and other references relevant to the research topic. Data collection techniques were conducted through literature studies, collecting and reviewing written materials related to the research problem.

Furthermore, the data was analyzed using a descriptive-analytical method, namely by describing the concept of jarimah al-riddah and then analyzing it using the maqashid sharia approach to obtain a more comprehensive and contextual understanding in accordance with the objectives of Islamic law.

III. RESULTS AND DISCUSSION

A. Research result

The research results show that the crime of al-riddah, from the perspective of classical Islamic criminal law, is viewed as a serious violation of religion, affecting aspects of faith and social stability. Therefore, classical scholars established strict sanctions as a form of religious protection (hifz al-din). However, in the development of contemporary Islamic legal thought, this concept has begun to be re-examined, taking into account the social context and humanitarian values.

Through the maqashid sharia approach, the crime of riddah is not only understood as a normative violation but is also analyzed based on the primary objective of sharia, namely, safeguarding human welfare. This approach emphasizes a balance between protecting religion and protecting basic human rights, such as freedom of belief, protection of the soul (hifz al-nafs), and protection of reason (hifz al-'aql).

The analysis shows that the application of the law to the crime of riddah (prison of riddah) must

be carried out contextually and proportionally, taking into account social factors, the objectives of sharia, and the potential benefits and harms that may arise. Thus, the maqashid sharia approach provides a more comprehensive and relevant understanding in addressing the issue of the crime of riddah in the modern era.

B. Discussion

The crime of apostasy (riddah) is a highly complex concept in Islamic criminal law, situated at the intersection of theological, legal, and social aspects. In classical Islamic jurisprudence, riddah is defined as a Muslim's departure from Islam, manifested through speech, action, or belief, consciously and without coercion (Awdah, 2000). This definition demonstrates that apostasy is not only understood as an internal matter but must also have external manifestations that can be legally proven.

In terms of legal basis, the Qur'an as the main source of Islamic law does not explicitly stipulate world sanctions for perpetrators of riddah, but rather emphasizes the economic consequences such as the loss of good deeds and the threat of torment in the afterlife (Department of Religion of the Republic of Indonesia, 2019). On the other hand, the Prophet's hadith which states that "whoever changes his religion, kills him" is the basis for the majority of classical scholars in determining the death penalty for perpetrators of riddah (Al-Bukhari, nd). However, understanding this hadith cannot be separated from the historical context of the early days of Islam, where apostasy was often accompanied by acts of rebellion and betrayal of the state (Rahman, 1982).

In this context, the maqashid sharia approach provides a more comprehensive perspective in understanding jarimah al-riddah. Maqashid sharia emphasizes that every law in Islam has the aim of realizing benefit and preventing harm. The five main objectives of sharia include the protection of religion (hifz al-din), soul (hifz al-nafs), reason (hifz al-'aql), offspring (hifz al-nasl), and property (hifz al-mal) (Al-Shatibi, 1997). In this context, protection of religion cannot be separated from protection of individual lives and freedom.

The maqashid sharia approach also demands balance in the application of the law. If the imposition of sanctions against consent actually results in greater harm, such as loss of life or violation of human rights, then this needs to be reconsidered. Jasser Auda (2008) emphasizes that maqashid sharia is dynamic and must be able to respond to changing times while remaining oriented toward the public interest. Therefore, the application of the death penalty to consent cannot be understood rigidly but must consider the social context and the objectives of the law itself.

Furthermore, the discussion of the elements of the crime of riddah also demonstrates the need for caution in determining an act as apostasy. In Islamic criminal law, an act cannot be categorized as a crime without fulfilling both objective and subjective elements (Az-Zuhaili, 2011). The objective element relates to the actual act indicating departure from Islam, while the subjective element relates to the perpetrator's intention and awareness. This is crucial to prevent errors in legal determination, given that belief is something internal and difficult to prove objectively.

In the development of contemporary Islamic thought, a more moderate view has emerged regarding sanctions against those who engage in puritanical acts. Abdullah Saeed (2006) argues that religious freedom is a fundamental right that must be respected, and therefore, changes in belief should not be subject to criminal sanctions. This view aligns with universally recognized human rights principles, including the Universal Declaration of Human Rights (UDHR), which guarantees every individual the freedom to choose and practice their beliefs.

In the Indonesian context, the approach to riddah also represents a significant paradigm shift. The state does not categorize riddah as a criminal offense, but rather as part of religious freedom guaranteed by the constitution (1945 Constitution, Article 28E). The state only regulates actions that have the potential to disrupt public order, such as blasphemy (Soesilo, 1995). This demonstrates that national law places greater emphasis on protecting individual rights and maintaining harmony in a pluralistic society.

Thus, through the maqasid sharia approach, the crime of riddah is understood not only textually but also contextually, taking into account the objectives of sharia and social realities. This approach allows for a more adaptive and relevant reinterpretation of the law to reflect current developments. Therefore, a balance between upholding religious values and respecting human rights is key to understanding and applying the concept of riddah in modern life.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the discussion above, it can be concluded that the crime of riddah (the crime of sin) is a highly complex concept in Islamic criminal law, as it relates not only to aspects of faith but also to social, legal, and political dimensions. In classical Islamic jurisprudence, riddah is understood as the act of leaving Islam, which is punishable by severe penalties, even the death penalty, based on interpretations of the Prophet's hadith.

However, when viewed through the maqashid sharia approach, understanding the crime of riddah cannot be done solely textually. Maqashid sharia emphasizes that the primary goal of Islamic law is to realize welfare and prevent harm, so that protection of religion (hifz al-din) must be balanced with protection of the soul (hifz al-nafs), reason (hifz al-'aql), and basic human rights. Therefore, the application of sanctions against riddah must take into account the social and historical context, as well as the resulting impact.

In the modern context, especially in a country like Indonesia, riddah is not categorized as a criminal offense, but rather as part of the constitutionally guaranteed religious freedom. This indicates a paradigm shift from a theological legal approach to one that places greater emphasis on human rights and pluralism.

Thus, the maqasid sharia approach provides a more comprehensive, contextual, and relevant understanding of the crime of riddah. Striking a balance between upholding religious values and respecting individual freedom is key to ensuring Islamic law remains able to respond to the

challenges of the times in a just and proportional manner.

B. Suggestion

Based on the research and discussion, it is recommended that understanding the crime of riddah be conducted not only textually but also using a more comprehensive and contextual approach to the maqasid sharia. This is crucial to ensure that the application of Islamic law remains in line with the primary objectives of sharia, namely realizing the welfare and justice of all human beings.

Furthermore, academics and practitioners of Islamic law are expected to continue developing more in-depth studies on the crime of riddah, particularly by linking it to the context of modern life and human rights principles. This way, Islamic law can be more adaptive to modern developments without losing its fundamental values.

For the public, increased understanding of the concept of riddah is needed to prevent misunderstandings or misuse in assessing someone's faith. Tolerance and respect for differences in belief also need to be continuously cultivated to maintain harmony in community life.

For future researchers, it is recommended to conduct research using an empirical approach or field studies, so that it can provide a more realistic picture of the application of the concept of jarimah al-riddah in society and the dynamics that occur within it.

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